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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 JAMES PRESSLEY,) CASE NO. CV 16-1796-RGK (PJW)
11)
12) Petitioner,) [PROPOSED] ORDER DISMISSING SECOND
13) OR SUCCESSIVE HABEAS CORPUS
14) v.) PETITION AND DENYING CERTIFICATE
15) OF APPEALABILITY
16)
17) STU SHERMAN, WARDEN,)
18)
19) Respondent.)
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16 Before the Court is Petitioner's second attempt to challenge his
17 2011 state convictions for robbery, burglary, and possession of a
18 firearm by a felon and resultant 45 years to life sentence. His first
19 petition was denied on the merits in February 2014. (*Pressley v.*
20 *Miller*, CV 13-1687-RGK (PJW), February 13, 2014 Order.) He thereafter
21 filed an appeal. In October 2014, the Ninth Circuit Court of Appeals
22 denied his request for a certificate of appealability. (*Pressley v.*
23 *Miller*, No. 14-55569, October 21, 2014 Order.)

24 Absent authorization from the Ninth Circuit, Petitioner may not
25 bring another habeas petition challenging his conviction and/or
26 sentence in this court. See 28 U.S.C. § 2244; see also *Burton v.*
27 *Stewart*, 549 U.S. 147, 157 (2007) (holding district court lacks
28 jurisdiction to consider the merits of a second or successive petition

absent prior authorization from the circuit court). For this reason, the Petition is dismissed.

The Court further finds that Petitioner has not made a substantial showing of the denial of a constitutional right or that the court erred in its procedural ruling and, therefore, a certificate of appealability will not issue in this action. See 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS SO ORDERED.

DATED: April 1, 2016



R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE

Presented by:



PATRICK J. WALSH
UNITED STATES MAGISTRATE JUDGE